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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,105	08/24/2001	Bijan Treister	52637-0029	3365

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EXAMINER

WALSH, JOHN B

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/939,105	Applicant(s) TREISTER ET AL.	
	Examiner John B. Walsh	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE of 4/27/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,8,9,13-20,23,24,28-34 and 38-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,9,13-20,23,24,28-34 and 38-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/15/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 43 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 43 recites the limitation "the communication device selecting". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5, 8, 9, 13-18, 20, 23, 24, 28-31, 33, 34 and 38-52 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pub. No. 2005/0223115 to Hanson et al. (priority date of Oct. 9, 1998).

As concerns claims 1, 16 and 31, see paragraphs 0024, 0028 and 0029.

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As concerns claims 2, 17 and 39, a single wireless connection (figure 1; comprises a single wireless connection within the communication connection).

As concerns claims 3, 18 and 40, a third participant (first and third may comprise the same participant and labeled differently at different points in time; paragraphs 0077 and 0080-first/third resumes communication).

As concerns claims 5, 20 and 41, a time period (inherent for function to take place during a period of time; see also paragraph 0017).

As concerns claims 8, 23 and 33, a mobile device (figure 1, 104a).

As concerns claims 9, 24, 34, 46, 49 and 52, see paragraphs 0024, 0051, 0052, 0077 and 0137.

As concerns claims 13, 28 and 38, the terms “master participant”, “slave participant” and “associate master participant” are mere labels and only the functions of the associated structure have been considered as further limiting which have been addressed in the rejection of claim 1.

As concerns claims 14 and 29, see paragraph 0080, lines 1-4.

As concerns claims 15 and 30, the second participant may designate itself (see also abstract).

As concerns claims 42 and 43, it is inherent within the definition of “the mechanism designating” that it will provide for “the mechanism selecting”.

As concerns claims 44, 45, 47, 48, 50 and 51, packets (inherent within TCP/IP network communication to have data sent in packets/frames; paragraph 0031).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 19 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2005/0223115 to Hanson et al. as applied above in view of GAN et al.

Hanson et al. '115 do not explicitly disclose a frequency hopping protocol.

GAN et al. teach a frequency hopping protocol (see entire document).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system of Hanson et al. '115 with a frequency hopping protocol, as taught by GAN et al., in order to provide a communication protocol that is less prone to interference.

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

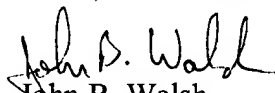
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (see PTO-892).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Wednesday from 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


John B. Walsh
Primary Examiner
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